IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(*Special Original Jurisdiction*)

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WEDNESDAY, THE TWENTY FOURTH DAY OF AUGUST

TWO THOUSAND AND FIVE

P R E S E N T

THE HON'BLE SRI JUSTICE ELIPE DHARMA RAO

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WP.NO.18728 OF 2005

Between:

Padma Bai … Petitioner

Versus

The District Collector, Adilabad,

Adilabad District & Ors. … Respondents

Counsel for the Petitioner: Mr.P.Pratap Reddy

Counsel for the Respondents 1 to 4: GP for Revenue

Counsel for the Respondent No.5: Mr.A.M.Qureshi

O R D E R :

This writ petition is filed questioning the proceedings Lr.No.Wakf/ADB/10/200 dated 31-5-2005 issued by the District Collector, Adilabad district directing the Revenue Divisional Officer, Nirmal to take over the suit land covered by survey no.164/A in an extent of Acs:3-00 situate at Kuber village and Revenue Mandal, Adilabad district from the possession and enjoyment of the petitioner and hand over the same to the Inspector Auditor, Wakf, Adilabad, as illegal, arbitrary and violative of the principles

of natural justice and consequential direction issued by the Revenue Divisional Officer, Nirmal, in his Procdgs.No.D/2343/2005, dated 23-6-2005 requesting the District Revenue Officer, Adilabad district, to depute Inspector Auditor, Wakf, Adilabad to take over possession of the suit land in consultation with the Mandal Revenue Officer, Kuber Mandal, Adilabad district, without prior notice or statutory enquiry or otherwise are arbitrary and illegal and violative of principles of natural justice.

The petitioner submits that she is in possession of an extent of Acs:3-00 gts., of agricultural land situate in survey no.164/A of Kuber village and Mandal of Adilabad district. The petitioner and her ancestors were in continuous possession of the suit land for the last more than 30 years, as tenants and the same can be traced out in the revenue records. The said land is an inam's land belonging to Mr.Sadique Ali son of Hidayath Ali. Originally the said Sadique Ali was granted inam as Mohatasifgiri i.e., for the services of supervision rendered over weight, measurement in the area by the-then Nizam Government.

The petitioner submits that she being the tenant in respect of the said land is entitled to get certificate under the provisions of AP (Telangana Area) Inams Abolition Act, 1955 and the rules made thereunder. The petitioner submitted an application before the third respondent seeking to grant Occupancy Rights Certificate. But the third respondent has not considered the application of the petitioner on the ground that the suit property is enlisted as wakf property in AP Gazette in respect of Wakf Property in Adilabad district dated 04-1-1990 and it is published in serial no.7316 and described as 'Mohatasifgiri'. Therefore, the petitioner submits that by any stretch

of imagination it could not be treated as wakf nor it comes under the definition of the wakf property as defined in the Central Wakf Act, 1954.

While things stood thus, the petitioner submits that the fourth respondent called the petitioner and directed her to handover the possession of the said land to the Inspector Auditor, Adilabad as per the directions given by the first respondent dated 31-5-2005 to the third respondent. Therafter, the fourth respondent handed over the proceedings of the first and third respondents dated 31-5-2005 and 23-6-2005 directing the fourth respondent to hand over the said land to the Inspector Auditor, Wakf attached to the fifth respondent without any notice. The first respondent issued the proceedings dated 31-5-2005 basing on the proceedings issued by the fifth respondent dated 04-1-2003. The said proceedings dated 04-1-2003 issued against the Muthawalli. The petitioner submits that she has no knowledge about the said proceedings and she is not a party thereof.

The contention of the petitioner is that even assuming for a moment that it is wakf property, even then as per Section 54 of the Wakf Act, 1955 an encroacher is entitled to a notice. But the petitioner submits that she is not an encroacher, as her ancestors and herself is in possession over the said land for the last 30 years as tenant and dug a bore-well and doing cultivation in the said land. In view of the above, the action of the respondents to dispossess her from the said land without following statutory requirement of law is illegal and arbitrary. Therefore, the petitioner filed the present writ petition.

After hearing the learned counsel for the petitioner as well as the learned

Govt.Pleader for the respondents, as can be seen from the record, it appears that the impugned proceedings seems to be an inter-departmental communication between the District Collector, Revenue Divisional Officers and the Mandal Revenue Inspector with regard to taking over possession of the land in question.

As seen from the facts and circumstances of the case, the Mandal Revenue Inspector has not taken any steps to implement the order passed by the District Collector, Adilabad district, which is impugned in the present writ petition. In that view of the matter, the writ petition is not maintainable, as the same has been filed in a post-haste manner on mere apprehension. In my considered view, the writ petition is not maintainable and the same is liable to be dismissed inlimini.

The writ petition is accordingly dismissed at the admission stage. No costs.

AUGUST 24th, 2005. ----------

I s L. ELIPE DHARMA RAO , J.